P 7-4-98

G. R. S. IX-5]

Previous references. (1897-98)

191

(L.R.)

Later references.

File No. 74-97

Serial Nos. 1-5

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-5

Part B for

SUBJECT.

Appeal of Rampaiya & others vs. the Patel & Village Chennagatna Tk.

W D 1250—GPE—30,000 - 23-1-19

Contd. on next

P11

Before the Government of Mysore.

Appeal No. 59 of 1897-98.

Appellant.s. (Plffs.) Vs. Respondent. (Defts.)

1. Kenchaja
2. Kencha.
Minors by guardian Irregular
of Sulere, Channapatna Taluk

Ist of the same village.

Appeal against the decision of the Deputy Commr of Bangalore in Appeal No 8 of 1897-98 on the file of his Court, dismissing the Appellants' suit for the Patel of Sulere.

Ordered to the 20th June 1899
Subd to 1st Coumakur
for perusal

14/6/99

2nd Addl Asst Commr
Kankanhalli

Appellants
Respondents

Before the Government of Mysore.

Appeal No. 59 of 1897-98

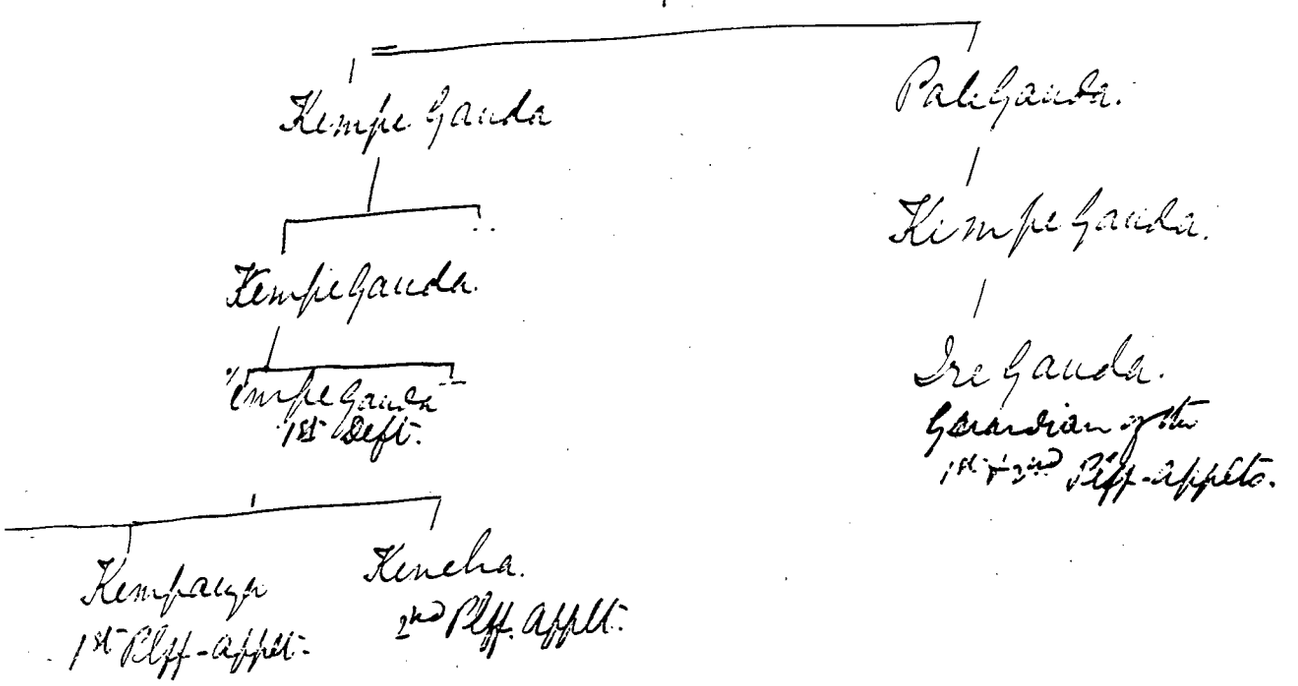
Appellant.	Vs.	Respondent.
(1) Kempraiya, minors (2) Kenchu by Guardian Era Gauda		Ira of Andeni Chennakesha Sh.

Notices served
27-6-1898

Notes of record
Rept
~~Appellants father~~ Gds duties
I think to reverse & the Asst appt to

28/6/98

Genealogical Table



Ire
2nd Beft-Reft.
Said to have been
the adopted Son.

Appeal Branch 24-1-98

1922

20/1/98

199 1/

Civil Appeal No. 57 of 98

Name of Petitioner Sivalingam Kanche

Village Aar

Taluk Tirunelveli

District Tirunelveli

Date of Arzi January 1898

Date of Receipt 24-1-98

Date of Disposal

No. of Enclosure 3

Sub

(1) The appeal is presented on 10/2 Stamp: Stamp sufficient.

2. Memo of the Deputy Commissioner dated 2nd Dec 1922 is time

(3) vide petition 1922 praying order to stay execution.

10/2/98

Court case

(1) The main question in this case whether the adoption has been proved. The Lower Court has held that it has been proved while the Sub Ct has held otherwise.

Even if the adoption is held to have been proved, the right of the adopted son is but 1/4th of a legitimate son born after the adoption or 1/14th of the family estate where there are (in this case, 2) legitimate sons (Mayne Para 153)

Petitioner may be stayed execution of Civil Court decree

20/1/98

Dec 1922

Judge

ABSTRACT

Appeal against the decision of the Subordinate Judge in the Appeal No. 3 of 97-8 on the file of this Court the following grounds:—

That the adoption of the plaintiff is regarded the authorised adoption of the male of Sivaram Kudumban can not determine the question of adoption in Kondapandaram that the lower Appellate Court in holding that Veerasekara was adopted, in spite of the evidence produced by the

appellants to the contrary,
that the rights of Patricia vests
in the appellants as admitted
by the respondent, that they
are the natural sons of Kempe Ramji,
that the mere Registry of the Patricia
in the name of the respondent
does not deprive the 1st appellants
of their ancestral right, that
the refusal of the respondent
natural brothers to give
him a share of his natural
father's estate is no reason
to his claim for the Patricia & this
& that the decision of the
lower appellate Ct. is against
Law -

28/1/98

Rec'd by Petn Branch 24/1/98

1905

MYSORE COURT FEE

MYSORE DEWAN'S OFFICE.
PETITION DEPARTMENT.
REG'D. No. 19248
24-1-98

Before the Government of Mysore at
Bangalore,

Revenue Second Appeal No 59 of 1897-98

In the Court of First instance. In the Court of Dep. Com^r. In the Court of Appellate

1 Kempiá
2 Kencha
minors by
Kempegowda of Soleri
village Chennapatna
Taluk by guardian
Eregowda,
Versus.
Eera of the village
of Soleri Chennapatna
Taluk

Plaintiffs. Respondents. 1st Appellants.

2nd Respondent. Appellant. 1st Respondent.

The Special appellants above named beg leave to appeal to this Government against the decree of the Deputy Commissioner of Bangalore passed in Civil Appeal No 59 of 1897-98 reversing the decree passed by the Chief Sub Division Officer in Revenue Original Case No 4 of 1894-95. for the following reasons

1. The adoption of the Respondent Eera is denied by the supposed adopter whatever the legal consequencies as far as he is concerned of his former statements, if any, the Appellants are not estopped from questioning the fact and the order of Captain Ludlow passed on the so called Representation of Kempegowda does not determine the question of Eera's adoption by Kempegowda and does not amount to a Judgment in rem.

2. The Respondent alleging the adoption the burden of proving it lay on him and he has not proved it while the witnesses adduced on behalf of the Appellants simply show that Respondent Eera was not adopted by Kempegowda the Lower Appellate Court erred in holding that Eera is the adoptive son of Kempegowda notwithstanding.

For Mr S. N. Rama Iyengar
Date 20th January 1898
Chamarajendra Vidyalaya

3. That the Appellants are the natural Sons of Kempegowda is admitted by the Respondent and the rights of the Appellants to the Office of Pately therefore follows as a legitimate consequence of such admission.

4. The mere registry of the Office in Respondents name made under an Ex parte Order passed on the representation of Kempegowda supporting it to be true, does not prejudice the rights of the Appellants and Lower Appellate Court erred in holding otherwise.

5. That the Respondents natural brothers have divided the family property and the Respondent cannot go back to his natural parents and claim any interest in their property is no reason to hold that the Respondent is the adopted son of Kempegowda nor to deny to the Appellants their legal rights.

6. The Lower Appellate Court has failed to consider the Rule of Res Gestae laid down by the Court of first instance requiring the Respondent who alleges the fact, to Establish his adoption in a regular manner in the proper forum.

7. The decision of the Lower Appellate Court is sentimental and is against Law, the weight of Evidence and the probabilities of the case.

Bangalore
January 1898.

for appellants

LR 74-97-2

1898 12

No. 1922

Name of Petitioner Narayan [illegible]

Village Sanvordem

Taluk Canacona

District Mormugao

Date of Arzi January 18

Date of Receip 24-1-98

Date of Disposal

No. of Enclosure nil

ABSTRACT

States that the abkari [illegible] except after January 1898 [illegible] the right of the petitioner to retail arrack of Sanvordem village that the Communidade applied to the Administrator of the Abkari Revenue under the Sub-Section [illegible] Section [illegible] to the petitioner applied to you against the decision of the Administrator which is still pending disposal and that they hear that the [illegible] has also

for the Execution of the Mandamus

orders –

Prays that orders may be

issued to suspend the Execution

of the Mandamus order till

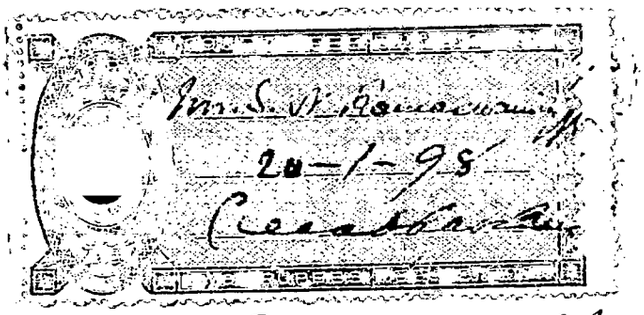
disposal of this appeal and

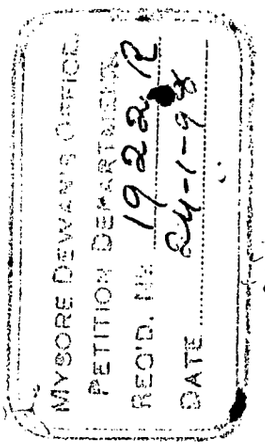
that they are prepared to furnish

security for any amount if

the Govt: so directs: –

20/1/98





Petn
Trl Ct
Branch
24/1/98

1922

Before the Government of Mysore
Bangalore.

Revision Petition No of 1897-98

Petitioner Kempia Kencha major
sons of Kempegowda of
Soolee village Channapatna
Taluk by guardian Engenda.

Versus

Counter Petitioner Eria of Soolee village

The Petitioners abovenamed beg to state as follows.

1. The Petitioners filed a Revenue suit in the Court of the Sub-Asst Officer Closepet for a declaration of their right to the Patelr of the village of Soolee and obtained a Decree in their favour.

2. The Counter petitioner appealed against the decree in the Court of the Deputy Comr of Bangalore who has reversed the decree of the first Court

3. The Petitioners have preferred a Special appeal against the decision of the Deputy Commissioner and it is now pending disposal by the Government

4. The Petitioners hear a verily believe that the Counter petitioner has applied for Execution of the Decree of the Deputy Commissioner

5. The Petitioners therefore most humbly trust the Government may be pleased to direct the stay of Execution of the decree of the Deputy Commissioner until the disposal of the Petitioners' Appeal.

6. The Petitioners are prepared to give any security the Government may order, for the due performance of any act the Government may eventually order in the case & to obey any order the Government may eventually be pleased to pass

Bangalore
January 3 1878

for the Petitioners

14-3-98

13

MYSORE DEWAN'S OFFICE

PETITION DEPARTMENT.

OFFICIAL MEMORANDUM.

The accompanying Appeal Petition

No. 1922 dated January 1898
1924

received at the Dewan's Office from

[illegible]

regarding the patel of N. Sooloor village

is forwarded, together with [illegible]

enclosures, to the Deputy Commissioner

[illegible] District

for submission of the entire proceedings connected with the case, together with a full report of the facts of the case, and on the points urged in the petition.

The petition with its enclosure should be returned.

[illegible]

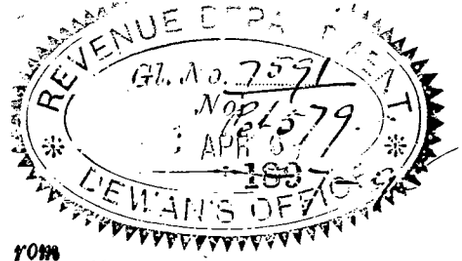
Secretary.

14/3/1898

14/3/98

I.G.C.P.B.—25-4-95—1,0

LR 76-97-3



141

From

The Dy. Commissioner, of the
Bangalore District.

To The Secretary to Govt.
of Mysore
Genl & Revenue Departments

Dated 16th April 1898
Despatched 18th "
Received

General No.
No. 1366

Enclosure No. 2 files

Regs Off Memo dt. Pet 1138
of the 14th March 1898.

Submitting records in Revenue Appeal No 3 of 1897-98 on the file of this Court regarding the Patel of Sooleri village, Channapatna Taluk & States that the facts of the case are stated in detail in the judgment appealed against.

Pet 16-20th June 18

16 27/4/98

9 Nov
19.4.98
Refd putah

Entd
MK
21/4/98

22/4/98

D. No. 1366

Encl 2 files

To

Bangalore District
Dy. Commissioner's Office
Bangalore 16th April 1898.

The Secretary to the Government
of Mysore,
Genl. & Rev. Departments.

Sir,

As called for in your official Memo No. Pet 1138 of the 14th March 1898, I have the honor to submit herewith the records in Revenue Appeal No. 3 of 1897-98, on the file of this Court, regarding the Patel of Soolai village, Channapatna Taluk. The facts of the case are stated in detail in the judgment appealed against.

2. The petition and its enclosures received with the reference under reply are herewith returned.

I have the honor to be
Sir
Your most obedient servant

Asst. Commissioner in Dist. charge.
for Dy. Commissioner,
Bangalore District.

Mms

(6)

2 Drafts

Proceedings of the Court of Mysore

Chamundi Nivas
25th March.

Read:—

Petition of appeal No 1324 of
as 59
1897-98 presented by Kempaiya
and Kencha by their guardian
Eregowda of Inleri, Channa-
patna Taluk, against the
decision of the Asst Comm^r &
Bangalore Distt in Rev appeal
No 2 of 1897-98, reversing the
decision of the Sub^a Officer
+
Closepett, in Rev O.S No 4 of
1894-95 decreeing the Pat^l's right
to the Patel office of the above
village

(2) The records received with
letter R. 16th April 98 No 13 Eb
from the Asst Comm^r Bangalore
District giving which the facts
appear as follows:—

The 1st deft Kempegowda
was the Patel of Inleri village
till 1874 when he was dismissed
from the office by the Distt Comm^r
Captain Linton for denial of
having sent a report, which
bore his signature, in connection
with a criminal case. This
order having been confirmed

+ Plaintiffs
(1) Kempaiya
(2) Kencha } minors
by guardian
Eregowda

Defendants
(1) Kempegowda
(2) Ira

Draft for approval
Sd/- C^m E D 2

Sd/- 12/7/98

Sd/- C^m/e Commr
for approval

Sd/- 15/7/98

9302

15.7.98

19/7/98

Read & Draft sent Sub.
Sd/- 18/7/98.

by the Defendant in 1876, the 1st
defendants adopted son Devu
(2nd Deft) then 2 years old,
was registered as barandadar
and one Bulla Gonda was
appointed to discharge the
duties as ~~the latter~~ gumasta.
The 2nd Deft has been performing
the duties ever since he became
a major and for the last 18 or
19 yrs. The plaintiffs were born
to the 1st Deft subsequent to
the adoption and in 1892 the 1st
Deft attempted to have one of
them registered as pasbet in place
of the 2nd Deft Devu as the latter
had deserted him. But on 6-8-
the Sub-Judge Pen directed that
the order of 1876 should remain
in force until set aside either
by Govt or in a Regular Suit.
In July 1894, the Pltffs, by their
Guardian Bulla Gonda brought
a regular suit for the recovery
of the Office from the ~~1st~~ Defts.
In the foregoing May and the 1st
Deft denied the adoption
of the 2nd Deft ~~by the latter~~

1911

Hon'ble he himself had admitted it on former occasions. The Subdn officer Sri Rangaswamy Chari, who tried the suit held that the adoption was not proved and decreed in favor of the Plffs. On appeal the Dy Commr held that the 1st Deft had admitted the adoption several times before different officers and that therefore he could not disbelieve the adoption. He therefore reversed the Subdn officer's decision. The Plaintiffs have appealed to Govt against this order.

1
5-68.
Ltr 5-4-98 / 21 20-7-98

Orders thereon

The 2nd Deft is the person whose name has been entered in the registers from the time of his adoption Father's dismissal. He has been officiating for the past 18 months. The arrangement sanctioned by the Dy Commr on his petition. Keeping pending application

should continue during the
latter's life time and after
his death the book will revert
to the Pltffs. In the meanwhile
the Pltffs names will be
entered as Readers jointly
with their father. The 2d
Deft will simply officiate
and receive Emoluments

C_2 & R C $\frac{r}{2}$ E D_2

Redmayne

Pltffs Declaration

To
The Rt Hon Comm Bourgoine
Lost write record

1/5/95

(5)

LR 74-97

నవంబర్ 1924

By order

Draft

For Secretary.

By order

For Secretary.